

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOHN P. McCARTHY,

Plaintiff,

v.

ORDER  
06-CV-570

MICHAEL J. ASTRUE, Commissioner  
of Social Security,

Defendant.

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This case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1). On February 26, 2007, defendant filed a motion for judgment on the pleadings. Plaintiff filed a cross-motion for judgment on the pleadings on March 23, 2007. On July 23, 2007, Magistrate Judge Scott filed a Report and Recommendation, recommending that the decision of the Commissioner be upheld, that defendant's motion for judgment on the pleadings be granted and plaintiff's cross-motion for similar relief in his favor be denied.

Plaintiff filed objections to the Report and Recommendation on August 1, 2007. Oral argument on the objections was held on March 18, 2008.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument

from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the decision of the Commissioner is upheld, defendant's motion for judgment on the pleadings is granted and plaintiff's cross-motion for similar relief in his favor is denied.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: March 24, 2008